

## **REMARKS**

Reconsideration and withdrawal of the rejections of the pending claims are respectfully requested in view of the amendments and remarks herein, which place the application in condition for allowance.

### **I. STATUS OF CLAIMS AND FORMAL MATTERS**

Claims 1-9 and 11-22 are pending in this application. Claim 1 has been amended to remove substituent  $Z = \text{NR}^5\text{R}^6$ . Claim 2 has been canceled. Claim 8 has been amended in accordance with the amended claim 1 and to define formula (I). Claims 11, 12, 14, and 17 have been amended to correct dependencies. Support for the amended claims can be found throughout the specification and claims as originally filed. No new matter has been introduced.

The Examiner is thanked for indicating that claim 7 would be allowable if written in independent form.

It is submitted that the claims, herewith and as originally presented, are patentably distinct over the prior art cited by the Examiner, and that these claims were in full compliance with the requirements of 35 U.S.C. § 112. It is submitted that the amendments of the claims, as presented herein, are not made for purposes of patentability within the meaning of 35 U.S.C. §§ 101, 102, 103 or 112. Rather, these amendments are made simply for clarification.

The issues raised by the Examiner in the Office Action are addressed below in the order they appear in the prior Action.

### **II. THE REJECTIONS UNDER 35 U.S.C. § 112, SECOND PARAGRAPH, ARE OVERCOME**

Claim 8 is rejected under 35 U.S.C. § 112, second paragraph as allegedly failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention.

Claim 8 has been amended to define formula (I) thereby obviating the Examiner's rejection.

Accordingly, reconsideration and withdrawal of the rejections under 35 U.S.C. § 112, second paragraph, are respectfully requested.

### III. THE NONSTATUTORY DOUBLE PATENTING REJECTION IS OVERCOME

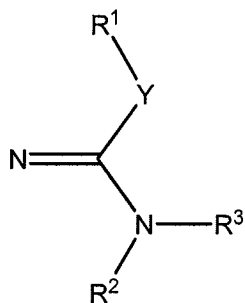
Claim 1-6, 8, 9, and 11-22 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as allegedly being unpatentable over claims of copending U.S. Application No. 10/562,919.

The Examiner asserts that that the pending claims are not patentably distinct from the claims of U.S. Application No. 10/562,919 because the claimed subject matter (compounds of formula (A)) overlaps.

Contrary to the Examiner's assertion, compounds of formula (A) of the pending claims as amended do not overlap with compounds of formula (A) claimed in the copending application. Formula (A) of the present invention does not cover the cyclic compounds of formula (A) of the copending application. Substituent Y disclosed in the present invention can be O or S, but not N, therefore compounds of formula (A) of the present claims as amended do not overlap and are patentably distinct from the class of compounds of formula (A) disclosed in the copending claims.

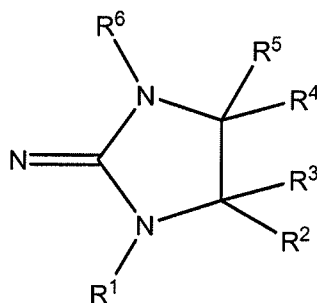
#### Pending Claims

##### Compounds of Formula (A)



#### Copending Claims (U.S. Patent Application No. 10/562,919)

##### Compounds of Formula (A)



Accordingly, reconsideration and withdrawal of the double patenting rejection are respectfully requested.

Claim 7 is objected by the Examiner as being dependent upon a rejected base claim. In view of the amendments to the base claim and arguments presented herein, reconsideration and withdrawal of these objections are respectfully requested.

**REQUEST FOR INTERVIEW**

If any issue remains as an impediment to allowance, an interview with the Examiner and SPE is respectfully requested, prior to issuance of any paper other than a Notice of Allowance; and, the Examiner is respectfully requested to contact the undersigned to arrange a mutually convenient time and manner for such an interview.

**CONCLUSION**

For the reasons stated above, Applicants respectfully request a favorable reconsideration of the application, reconsideration and withdrawal of the rejections of the pending claims, and prompt issuance of a Notice of Allowance.

Respectfully submitted,  
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